



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman

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Arnold
Schwarzenegger
Governor

September 21, 2006

Mr. Kevin Barr
Redwood Empire Vineyards Management
P.O. Box 729
Geyserville, CA 95441

Dear Mr. Kevin Barr:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for Summerwind Vineyards Stream Restoration Project

File: Summerwind Vineyards Stream Restoration Project, 28301 Highway 128, Yorkville, Mendocino County
WDID No. 1B06088WNME

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341), in response to your request for Water Quality Certification for activities related to the installation of 710 linear feet of rip-rap and extensive riparian plantings for streambank protection on your Summerwind Vineyards ranch near Yorkville, Mendocino County. On June 16 2006, the Regional Water Board received your application and a \$4,417.50 processing fee. On August 24, 2006, we deemed the application complete and posted information describing the project on the Regional Water Board's website for a 21-day public review and comment period. We did not receive public comments on this project.

Project Description: The project is located on the Barr's Summerwind Vineyards ranch, at 28301 Highway 128, approximately 1-½ miles east of Yorkville, Mendocino County, APN 049-250-54 and 049-300-49. The proposed project will cause disturbances to waters of the United States associated with Dry Creek, tributary to the Russian River and upstream of Warm Springs Dam. The ranch borders approximately 4,000 feet of Dry Creek. The primary purpose of the project is to stabilize areas of eroding streambank to reduce the risk of streambank failures that would likely result in the loss of riparian areas, beneficial uses of Dry Creek, agricultural land, structures, Highway 128, and utility communication lines.

California Environmental Protection Agency

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The proposed project includes bank stabilization and habitat restoration activities in four discrete but related locations of Dry Creek on the Summerwind Vineyards property. These four sites, and work proposed at each site are as follows: 1) Severe erosion has created a 12-foot high vertical bank along the south bank adjacent to an orchard. 230 linear feet of bank will be stabilized. The upper 6 feet of the bank will be sloped back at a 2:1 slope. Gravel from an on-site channel gravel bar will be excavated and placed along the vertical bank with additional gravels from an excavated 4-foot deep toe trench to a height of 4 feet. Two feet of soil will be placed on top of the gravel bench, the bench will be graded to a 2:1 slope, and large diameter rip-rap will be placed in the trench to a height of 6 vertical feet. Willow stakes will be planted at the toe of the rip-rap, and between the boulders, with a mix of upland type native trees planted on the bench and to the top of the slope. A J-vane consisting of 24 to 48-inch rip-rap will be constructed just upstream of Site 1 to direct the stream away from the newly constructed bank.

2) Approximately 435 linear feet of the south bank will be stabilized. The lower (downstream) 335 feet of this bank segment is located close to Highway 128, fiber optic line, and mature oak and willow trees; therefore, the bank cannot be sloped back. Gravel bed material placed against the former vertical bank will remain but the rip-rap will be removed and returned to the stockpile at the western end of the site. The upper 100 linear feet of bank will be sloped back at a 2:1 slope, generating excess soils. These soils will be used to fill two eroded gullies, and to reconstruct the bank both at this site and at Site 1. 24 to 48-inch rip-rap will be placed in a toe trench and extended up the slope to a vertical height of 6 feet. Willow stakes will be planted at two foot intervals at the toe of the slope, and within spaces between the rip-rap. Clean soil will be spread on top of the gravel slope, and trees and shrubs will be planted at the top of the slope and beyond. The Highway 128 culvert swale will be redesigned and stabilized to decrease erosion. The swale will be widened, realigned, sloped back, stabilized with erosion control matting, and 12 to 24-inch rip-rap will be placed at the culvert outlet. A small swale will be installed in the orchard to redirect stormwater from gullies into the Highway 128 culvert swale.

3) 50 linear feet of bank on the south bank will be stabilized using 24 to 48-inch rip-rap placed in a toe trench and extend up the slope to a vertical height of 4 feet. Existing rip-rap will be removed and

native soils will be placed around existing vegetation and contoured. Willow stakes will be planted at two foot intervals at the toe of the slope and within spaces between the rip-rap, and trees and shrubs will be planted at the top of the slope and beyond. Two areas near the red barn experiencing minor erosion from surface water runoff will be filled in with native soils and erosion matting will be installed over the erosion areas. Both these areas will be planted with trees and shrubs.

4) 210 linear feet of bank on the north bank will be enhanced and stabilized by willow stakes and restored as riparian habitat, with trees and shrubs planted in upland areas.

Additional Riparian Restoration - 580 linear feet of the top of bank along the south bank will be planted with trees and shrubs to form a continuous riparian corridor. No bank stabilization or streambed restoration activities are proposed along this section.

Trash and Debris Removal – Trash and debris will be removed from the creek channel including an old tractor and a cable attached to an ash tree that has accumulated unwanted trash and debris. After the tractor is removed, the remaining hole will be filled with gravel bed material.

Giant Reed Removal and Streambed Restoration – A large stand of giant reed (*Arundo donax*) located near the center of the stream will be removed using an excavator. The excavation hole will be filled with gravel bed material. The giant reed will be transported by dump truck to an upland area, where it will be burned.

Temporary irrigation systems will be installed at all planting sites to irrigate and ensure survival of all plantings.

Receiving Waters:	Dry Creek in the Russian River Hydrologic Unit, Warm Springs Hydrologic Subarea No. 114.24.
Latitude/Longitude:	38.9235 E/123.2973 N
Filled or Excavated Area:	Area Temporarily Impacted: 0.0 acre Area Permanently Impacted: 0.45 acre
Total Linear Impacts:	Length Temporarily Impacted: none Length Permanently Impacted: 920 feet

Federal Permit: U.S. Army Corps of Engineers Nationwide Permit No. 27 (File No. 289361N)

Compensatory Mitigation: Work at Sites 1, 3, 4, Additional Riparian Restoration, Trash and Debris Removal, and Giant Reed Removal and Streambed Restoration are all considered compensatory mitigation for the unpermitted work performed at Site 2.

Noncompensatory Mitigation: Noncompensatory mitigation measures for this project include future plantings of native riparian vegetation and the use of Best Management Practices for heavy equipment use near a waterway. The applicant has obtained a Lake or Streambed Alteration Agreement (1600 Permit) from the California Department of Fish and Game.

CEQA Compliance: The Regional Water Board issued Cleanup and Abatement Order No. R1-2006-0044 to Mr. Barr for unauthorized activities and discharges of waste to upper Dry Creek, and requested that Mr. Barr apply for Clean Water Act Section 401 Water Quality Certification and/or Waste Discharge Requirements (Workplan), apply for a California Department of Fish and Game Streambed Alteration Agreement, and apply for a U.S. Army Corps of Engineers Clean Water Act Section 404 permit, and to implement the Workplan. The submitted Workplan is the result of an enforcement action being taken for the protection of the environment. As such it is exempt from the document preparation requirements of the California Environmental Quality Act (Pub. Resources Code, section 21000 et seq.), as specified in the California Code of Regulations, Title 14, sections 15308 and 15321.

Standard Conditions: Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy

- 3) Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 4) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions: Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The applicant shall notify Regional Water Board staff prior to the commencement of the project activities with details regarding the schedule of operations, to allow staff the opportunity to be present onsite and to answer any public inquiries that may arise regarding the project.
- 2) A copy of this permit must be provided to all contractors and subcontractors working on this project, and a copy must be in their possession at the work site. It is the applicant's responsibility to ensure that the contractor and all subcontractors are provided a copy of this permit.
- 3) All activities and Best Management Practices shall be implemented according to the submitted application and the conditions in this Water Quality Certification.
- 4) Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicle or equipment, which leaks any substance that may impact water quality. If, at any time, an unauthorized discharge to surface waters occurs from operation, fueling, lubrication, maintenance, storage or staging activities, the project shall cease immediately and Regional Water Board staff shall be notified promptly.

- 5) Impacts to existing vegetation shall be minimized and limited to the extent necessary to access, install, and maintain bank stabilization.
- 6) Vehicle bodies, vehicle parts and other trash or metal debris that becomes exposed on dry areas on the gravel bars may be removed and hauled out of the creek. All removed materials shall be disposed of properly and any disturbed surfaces shall be graded to match the natural surface surrounding the area.
- 7) No bark, slash, sawdust, oil or petroleum products, or other organic or earthen material, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. If, at any time, an unauthorized discharge of bark, slash, sawdust, oil or petroleum products, or other organic or earthen material to surface waters occurs, or any water quality problem arises, the project shall cease immediately and Regional Water Board staff shall be notified promptly.
- 8) Project activities shall comply with provisions in the North Coast Region Water Quality Control Plan (Basin Plan).
- 9) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.
- 10) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the applicant, the applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address, and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest

intends to implement the Project as described in this Order.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the Summerwind Vineyards Stream Restoration Project, (Facility No. 1B06088WNME) will comply with the applicable provisions of sections 301 ("Effluent

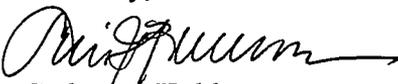
Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on September 22, 2011. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Scott Gergus of our staff at (707) 576-2685 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,


for Catherine Kuhlman
Executive Officer

92206_SAG_Summerwind Vineyards Stream Restoration Project cert

Enclosure:

State Water Resources Control Board Order No. 2003-0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification"

cc: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market Street, San Francisco, CA 94599

Mr. Peter Straub, Army Corps of Engineers, Regulatory Branch, 333 Market Street, San Francisco, CA 94105

Mr. Darren Wiemeyer, Golden Bear Biostudies, 406 E Street, Santa Rosa, CA 95404

Mike Carlson, Geary, Shea, O'Donnell and Grattan, 37 Old Courthouse Square, 4th floor, Santa Rosa, CA 95404

Mr. Dan Merkley, Agricultural Coordinator, State Water Resources Control Board, P.O. Box 100, 1001 I Street, 15th Floor, Sacramento, CA 95812-0100

Warden Maurer, Department of Fish and Game, Region 3, P.O. Box 47, Yountville, CA 94599

Ms. Corrine Gray, Department of Fish and Game, Region 3, P.O. Box 47, Yountville, CA 94599

Mr. Oscar Balaguer, SWRCB, Water Certification Unit

Ms. Sheryl Schaffner, SWRCB, Office of Chief Counsel